

1 **R277. Education, Administration.**

2 **R277-471. Oversight of School Inspections.**

3 **R277-471-1. Definitions.**

4 A. "Board" means the Utah State Board of Education.

5 B. "Certified plans' examiner" means a professional who  
6 has current certification through the International Code  
7 Council which requires a rigorous testing program.

8 C. "Charter schools" means:

9 (1) schools acknowledged and operating as charter  
10 schools by local boards of education under Section 53A-1a-505  
11 or by the Board under Section 53A-1a-515; and

12 (2) charter school applicants that have their  
13 applications approved by a chartering entity in accordance  
14 with Title 53A, Chapter 1a, Part 5, the Utah Charter Schools  
15 Act.

16 D. "Charter school responsible person or local charter  
17 school board building officer (charter school designee)" means  
18 the individual or authority designated by the charter school  
19 board who has direct administrative and operational control of  
20 charter school construction/renovation and has responsibility  
21 for the charter school's compliance with the Code on behalf of  
22 the charter school board.

23 E. "Certificate of inspection verification" means a form  
24 certifying that the entity responsible for providing  
25 inspection services has complied with the provisions of  
26 Sections 53A-20-104, 53A-20-105, 10-9a-305, 17-27a-305, and  
27 58-56, Uniform Building Standards Act, as well as the  
28 provisions of this rule. The form available on the USOE  
29 School Finance and Statistics Section Web page:  
30 <http://www.schools.utah.gov/finance/facilities/default.htm>.

31 F. "Code" means the state-adopted construction code,  
32 including all statutes and administrative rules which control  
33 the construction, renovation, and inspection of Utah public  
34 school buildings.

35 G. "General plan" means a document that a municipality  
36 adopts that sets forth general guidelines for proposed future  
37 development of the land within the municipality, consistent

with Section 10-9a-103(11).

H. "Public School District Building Official (SDBO)" means the individual or authority designated by the public school district who has direct administrative and operational control of school district construction/renovation and is responsible for the school district's compliance with the Code.

I. "Superintendent" means the State Superintendent of Public Instruction.

J. "School Building Construction and Inspection Resource Manual (Resource Manual)" means a manual which identifies the processes and procedures a school district or charter school shall follow when constructing a new public school building or renovating existing buildings. The Resource Manual was developed by the USOE in response to legislative direction under Section 53A-20-104.5, and is available on the USOE School Finance and Statistics Section Web page:

<http://www.schools.utah.gov/finance/facilities/default.htm>.

K. "USOE" means the Utah State Office of Education.

## **R277-471-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities and permits the Board to interrupt disbursements of state aid to any school district or charter school which fails to comply with rules adopted by the Board.

B. The purpose of this rule is to provide specific provisions for the oversight of permanent or temporary public school construction/renovation inspections and to identify local school board and charter school board responsibilities and accountability to the Board.

## **R277-471-3. School District Building Official, and Charter School Responsible Person.**

A. Local boards of education and local charter school

73 boards shall be accountable to ensure that all school district  
74 and charter school permanent or temporary construction,  
75 renovation, and inspection is conducted in accordance with the  
76 Code.

77 (1) Local school boards shall appoint a School District  
78 Building Official (SDBO) who has direct administrative and  
79 operational control of all construction, renovation, and  
80 inspection of public school district facilities within the  
81 school district and shall provide in writing the name of the  
82 SDBO to the USOE.

83 (2) Charter school boards shall be accountable to the  
84 State Charter School Board and the Board to ensure that all  
85 charter school permanent or temporary construction,  
86 renovation, and inspection is conducted in accordance with the  
87 Code. Each local charter school board shall appoint a local  
88 charter school board building officer who has direct  
89 operational responsibility for construction, renovation, and  
90 inspection of the charter school. The local charter school  
91 board building officer shall report regularly to the local  
92 charter school board.

93 (a) The local charter school board shall provide the name  
94 of this officer in writing to the Superintendent.

95 (b) The local charter school board shall promptly notify  
96 the Superintendent in writing of any changes of this  
97 individual.

98 (c) Following notification, the USOE shall provide a  
99 construction project number.

100 B. The SDBO shall monitor school district building  
101 construction to ensure compliance with the provisions of the  
102 Code.

103 C. The local charter school board building officer shall  
104 monitor all charter school building construction to ensure  
105 compliance with the provisions of the Code.

106 D. The SDBO and local charter school board building  
107 officer shall render interpretations of the Code for the  
108 school district or charter school. Such interpretations shall  
109 be in conformance with the intent and purpose of the Code,

insofar as they are expressed in the Code or in legislative intent.

E. The SDBO and local charter school board building officer may adopt and enforce supplemental school district and charter school policies under appropriate school district and charter school policies to clarify the application of the provisions of the Code for school district and charter school personnel.

F. Before any school district or charter school construction project begins, school districts and charter schools shall obtain a construction project number from the USOE and complete and submit construction project identification forms provided by the USOE for all projects which exceed \$99,999 in cost.

G. All school district and charter school plans and specifications shall be approved by a certified plans' examiner before any school district or charter school construction project begins.

H. If a school district or charter school is unable to provide appropriate and proper school construction inspection services, the Superintendent may provide for inspection services from a list of inspectors determined by the Superintendent and charge the school district or charter school for those services. Fees shall be established in advance of inspection services.

I. For all school district or charter school projects that exceed \$99,999, the SDBO and local charter school board building officers shall:

(a) submit inspection summary reports monthly to the USOE;

(b) submit inspection summary reports monthly to the appropriate local government entity building official;

(c) submit inspection certificates to the USOE and appropriate local government entity building official;

(d) maintain all submitted documentation at a designated school district/charter school location for auditing or monitoring;

147 (e) identify and provide to the USOE and local government  
148 entity building official the total number of inspections with  
149 the name, state license number, and disciplines of each  
150 inspector;

151 (f) ensure that each inspector is adequately and  
152 appropriately credentialed;

153 (g) sign the final certificate of inspection and  
154 verification form, certifying all inspections were completed  
155 in compliance with the law and this rule.

156 (h) send the final inspection certification and  
157 inspection verification to the USOE and to the appropriate  
158 local government entity building official upon completion of  
159 the project;

160 J. Reports required under this rule may be paper or  
161 electronic.

162 **R277-471-4. Coordination with Local Governments, Utility**  
163 **Providers and State Fire Marshal.**

164 A. Prior to developing plans and specifications for a  
165 new public school, or the expansion of an existing public  
166 school, school districts and charter schools shall coordinate  
167 with affected local government land use authorities and  
168 utility providers to:

169 (1) ensure that the siting or expansion of a school in  
170 the intended location will comply with applicable local  
171 general plans and land use laws and will not conflict with  
172 entitled land uses;

173 (2) ensure that all local government services and  
174 utilities required by the school construction activities can  
175 be provided in a logical and cost-effective manner;

176 (3) avoid or mitigate existing and potential traffic  
177 hazards, including consideration of the impacts between the  
178 new school and future roadways;

179 (4) maximize school, student and site safety.

180 B. Prior to developing plans and specifications for a  
181 new public school, or the expansion of an existing school,  
182 school districts and charter schools shall coordinate with

183 local health departments and the State Fire Marshal.

184 C. School districts and charter schools shall maintain  
185 documentation for audit purposes of coordination, meetings,  
186 and agreements.

187 **R277-471-5. Charter School Land Use Zoning within**  
188 **Municipalities and Counties.**

189 A. If consistent with the general plan, a charter school  
190 shall be considered a permitted use in all zoning districts  
191 within a municipality or county, except as provided in R277-  
192 471-5D.

193 B. Each land use application for any approval required  
194 for a charter school, including an application for a building  
195 permit, shall be processed on a first priority basis by  
196 municipalities and counties.

197 C. Parking requirements for a charter school may not  
198 exceed the minimum parking requirements for traditional public  
199 schools of like size and grade levels or other institutional  
200 public uses throughout the municipality or county.

201 D. If a municipality or county has designated zones for  
202 sexually oriented businesses, or businesses which sell  
203 alcohol, a charter school may be prohibited from locations  
204 which would defeat the purpose for the zone, unless the  
205 charter school provides a waiver of liability for the local  
206 government entity by the charter school governing board in an  
207 open meeting.

208 **R277-471-6. Public School District/Charter School**  
209 **Construction Inspection.**

210 A. A public school district or charter school may employ  
211 one of three methods for school construction inspection:

212 (1) An independent, properly licensed and certified  
213 building inspector;

214 (2) a properly licensed and certified building inspector,  
215 employed by the school district; or

216 (3) a properly licensed and certified building inspector  
217 approved by the local jurisdiction in which the construction

218 activity occurs.

219 B. Procedure for independent properly licensed and  
220 certified building inspector:

221 (1) The SDBO or charter school designee shall provide, on  
222 a monthly basis during construction, a copy of each inspection  
223 certificate and a monthly inspection summary regarding the  
224 school building to the Superintendent and to the appropriate  
225 local governmental entity building official where the building  
226 is located for each project that exceeds \$99,999 in cost.

227 (2) The school district, through the SDBO, or charter  
228 school designee shall identify in the monthly summary reports  
229 the total number of inspections as well as the name, state  
230 license number and discipline(s) of the state  
231 licensed/certified inspectors performing the building  
232 inspections.

233 (3) The independent building inspector shall:

234 (a) not be an employee of the architect, contractor or  
235 any subcontractor on the project;

236 (b) be approved by the applicable local government or  
237 school district building inspector; and

238 (c) be properly licensed and certified to perform all of  
239 the inspections that the inspector is required to perform.

240 (4) After completion of the project, the SDBO or charter  
241 school designee shall, upon completion of all required  
242 inspections of the school building, file with the USOE and the  
243 building inspector of the local jurisdiction in which the  
244 building is located, a certificate of inspection verification,  
245 certifying that all inspections were completed in accordance  
246 with the Code.

247 (5) The school district or charter school shall seek a  
248 certificate authorizing permanent occupancy of the school  
249 building from the Superintendent.

250 (6) Within 30 days after the school district or charter  
251 school files a request for the issuance of a certificate  
252 authorizing permanent occupancy of the school building, the  
253 Superintendent shall:

254 (a) issue to the school district or charter school a

certificate authorizing permanent occupancy of the school building; or

(b) deliver to the local school board or charter school board a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection findings; and

(c) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local government entity in which the school building is located.

(7) Upon the local school or charter school board's filing of the certificate of inspection verification and requesting the issuance of a certificate authorizing permanent occupancy of the school building with the USOE, the school district or charter school shall be entitled to temporary occupancy of the school building for a period up to 90 days, beginning on the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(8) Upon the school district or charter school remedying any inspection deficiencies and notifying the Superintendent that the deficiencies have been remedied, following certification of the information, the Superintendent shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located authorizing permanent occupancy of the school building.

(9) The Superintendent may contract with any appropriately qualified entity or person(s) to provide inspection services that the Superintendent considers necessary to enable the Superintendent to issue a certificate authorizing permanent occupancy of the public school building.

(10) The Superintendent may charge the school district or charter school a fee not to exceed the actual cost of performing the inspection(s) for inspection services that the Superintendent considers necessary to enable the



292 Superintendent to issue a certificate authorizing permanent  
293 occupancy of the school building.

294 (11) A certificate authorizing permanent occupancy  
295 issued by the Superintendent shall be considered to satisfy  
296 any municipal or county requirement(s) for an inspection or a  
297 certification of occupancy.

298 C. Procedures for properly licensed and certified school  
299 district building inspector:

300 (1) The SDBO or charter school designee shall provide, on  
301 a monthly basis during construction, a copy of each inspection  
302 certificate and a monthly inspection summary regarding the  
303 school building to the Superintendent and to the appropriate  
304 local governmental entity building official where the building  
305 is located for each project that exceeds \$99,999 in cost.

306 (2) The school district, through the SDBO, or the charter  
307 school designee shall identify in the monthly summary reports  
308 the total number of inspections as well as the name, state  
309 license number and discipline(s) of the state  
310 licensed/certified inspectors performing the building  
311 inspections.

312 (3) School districts:

313 (a) After completion of the project, the SDBO shall sign  
314 a certificate of inspection verification and a certificate of  
315 occupancy certifying that all inspections were completed in  
316 accordance with the Code and file the form with the USOE and  
317 the building official of the jurisdiction in which the  
318 building is located.

319 (b) A school district may issue its own certificate  
320 authorizing permanent occupancy of a school building if it  
321 used a building inspector employed by the public school  
322 district for inspection of the school building.

323 (4) Charter schools:

324 (a) After completion of the project, the charter school  
325 may seek a certificate of occupancy from the SDBO of the  
326 school district providing the inspection services.

327 (b) If the charter school seeks a certificate of  
328 occupancy from the SDBO, the SDBO shall sign a certificate of

inspection verification and a certificate of occupancy certifying that all inspections were completed in accordance with the Code and file the form with the USOE and the building official of the municipality or county in which the building is located.

(c) A certificate authorizing permanent occupancy issued by a SDBO with authority to issue the certificate shall satisfy any municipal or county requirement for an inspection or a certification of occupancy.

D. Procedure for properly licensed and certified local municipal or county building inspector:

(1) The SDBO or charter school designee shall provide, on a monthly basis during construction, a copy of each inspection certificate and a monthly inspection summary regarding the public school building to the Superintendent for each project that exceeds \$99,999 in cost.

(2) The school district, through the SDBO or charter school designee, shall identify in the monthly summary reports the total number of inspections as well as the name, state license number and discipline(s) of the state licensed/certified inspectors performing the building inspections.

(3) School districts:

(a) After completion of the project, the SDBO shall sign a certificate of inspection verification form certifying that all inspections were completed in accordance with the Code and file the form with the USOE and the building official of the jurisdiction in which the building is located.

(b) A public school district shall seek a certificate authorizing permanent occupancy of a school building from the jurisdiction in which the building is located; a copy of the certificate of occupancy shall be filed with the USOE.

(4) Charter schools:

(a) After completion of the project, the charter school designee shall obtain a completed certificate of inspection verification form from the local municipal or county building inspector certifying that all inspections were completed in

366 accordance with the Code and file the form with the USOE.

367 (b) A charter school shall seek a certificate authorizing  
368 permanent occupancy of a school building from the jurisdiction  
369 in which the building is located; a copy of the certificate of  
370 occupancy shall be filed with the USOE.

371 E. A municipality or county may not:

372 (1) require school districts or charter schools to  
373 landscape, fence, make aesthetic improvements, use specific  
374 construction methods or materials, impose requirements for  
375 buildings used only for educational purposes, or place  
376 limitations prohibiting the use of temporary classroom  
377 facilities on school property. All temporary classroom  
378 facilities shall be properly inspected to meet the Code.

379 (2) require a school district or charter school to  
380 participate in the cost of any roadway or sidewalk, or a study  
381 of the impact of a school on a roadway or sidewalk, that is  
382 not reasonably necessary for the safety of school children and  
383 not located on or contiguous to school property, unless the  
384 roadway or sidewalk is required to connect an otherwise  
385 isolated public school or an existing roadway;

386 (3) require a school district or charter school to pay  
387 fees not authorized under 10-9a-305 or 17-27a-305;

388 (4) require inspection of school construction or assess  
389 a fee or other charges for inspection, unless the school  
390 district or charter school is unable to provide for inspection  
391 by properly licensed and certified inspectors, other than the  
392 project architect, contractor or subcontractors;

393 (5) require a school district or charter school to pay  
394 any impact fee for an improvement project that is not  
395 reasonably related to the impact of the school project upon  
396 the need that the improvement is to address; or

397 (6) impose regulations upon the location of a public  
398 school project except as necessary to avoid unreasonable risks  
399 to health or safety of students.

400 F. A municipality or county may, at its discretion,  
401 schedule a time with school district or charter school  
402 officials to:

(1) provide a walk-through of school construction at no cost and at a time convenient to the school district or charter school; and

(2) provide recommendations based on the walk-through.

**R277-471-7. School Building Construction and Inspection Resource Manual.**

A. The USOE shall develop and distribute to each school district and charter school a Resource Manual.

B. The Resource Manual shall include process, legal requirements and resource information on school building construction and inspections.

C. The USOE shall review and, if necessary, update the Resource Manual annually.

D. The Board, local school boards, charter school boards, as well as school district and charter school personnel shall act consistent with the Resource Manual.

**R277-471-8. Annual Construction and Inspection Conference.**

A. The USOE shall sponsor an annual school construction conference for representative(s) from each school district, charter school, and interested persons involved in the school building construction industry. The conference shall:

(1) provide current information on the design, construction, and inspection process of school buildings;

(2) provide training on school site selection, design, construction, lowest life-cycle costing, and construction inspection matters as determined by the USOE; and

(3) offer and discuss information to improve the existing public school building construction inspection program.

**R277-471-9. Enforcement.**

A. School districts and charter schools which fail to comply with the provisions of this rule are subject to interruption of state aid dollars by the Board in accordance with Section 53A-1-401(3) and 53A-17a-144(4)(d).

437       (1) If a school district or charter school fails to meet  
438 or satisfy a school construction inspection requirement or  
439 timeline designation under this rule, the school district  
440 superintendent or local charter school director shall receive  
441 notice by certified mail; and

442       (2) If after 30 days the requirement has not been met,  
443 the USOE shall interrupt the Minimum School Program fund  
444 transfer process to the following extent:

445       (a) 10 percent of the total monthly Minimum School  
446 Program transfer amount the first month;

447       (b) 25 percent in the second month; and

448       (c) 50 percent in the third and subsequent months.

449       B. If the USOE interrupted the Minimum School Program  
450 fund transfer process, the USOE shall:

451       (1) upon receipt of confirmation that the proper  
452 inspection(s) has (have) taken place or upon receipt of a late  
453 report, restart the transfer process within the month (if the  
454 confirmation or report is submitted before the tenth working  
455 day of the month) or in the following month (if the  
456 confirmation or report is submitted after 10:00 a.m. on or  
457 after the tenth working day of the month); and

458       (2) inform the appropriate Board Committee at its next  
459 regularly scheduled Committee meeting; and

460       (3) inform the chair of the local governing board if the  
461 school district superintendent or charter school director is  
462 not responsive in correcting ongoing school construction  
463 inspection and reporting problems.

464       C. A nonrefundable fine in the amount of one half of one  
465 percent of the total construction costs shall be assessed  
466 school districts and charter schools that fail to report new  
467 or remodeling projects to USOE that exceed \$99,999 before  
468 construction begins.

469       (1) Nonrefundable fine amounts shall be deducted from the  
470 respective school district's and charter school's Minimum  
471 School Program allotment at a rate sufficient to complete  
472 collection of the nonrefundable fine by the end of the current  
473 fiscal year.

474 (a) School district nonrefundable fine amounts collected  
475 by USOE shall be deposited into the School Building Revolving  
476 Account; and

477 (b) charter school nonrefundable fine amounts collected  
478 by USOE shall be deposited into the Charter School Building  
479 Subaccount within the School Building Revolving Account.

480 [B]D. Violation of any land use regulation and the  
481 substantive provisions of all Codes is a class C misdemeanor  
482 and may be subject to further civil penalties, as established  
483 by local ordinance.

484 **R277-471-10. Appeals Procedure for Nonrefundable Fines.**

485 A. School districts or local charter school boards may  
486 appeal a fine assessed under R277-471-9C consistent with the  
487 following:

488 (1) A fine may not be appealed until a final  
489 administrative decision has been made to assess the fine by  
490 the USOE and the fine has been affirmed by the Board.

491 (2) A district superintendent on behalf of a local  
492 school board or a local charter board chair on behalf of a  
493 local charter school board may appeal an assessed fine by  
494 filing an appeal form provided on the USOE website.

495 (3) The appeal must be filed within 10 business days of  
496 final affirmation of USOE action/withholding by the Board.

497 (4) The appeal shall be delivered or provided  
498 electronically to the USOE as provided by the appeal form.

499 (5) The appeal form shall require an explanation of  
500 unanticipated or compelling circumstances that resulted in  
501 local board's or charter school's failure to report new  
502 construction or remodeling projects that exceed \$99,999.

503 (6) The appeal form shall require a notarized statement  
504 from the district superintendent or local charter board chair  
505 that the information and explanation of circumstances are true  
506 and factual statements.

507 (7) At least three members of the Finance Committee  
508 appointed by the Board shall act as a review committee to  
509 review the written appeal.

510       (a) The appeal committee may request additional  
511 information from the local school board/local charter board.

512       (b) The appeal committee may ask the district  
513 superintendent or local school district or charter school  
514 board chair or school district/charter school business staff  
515 to appear personally and provide information.

516       (c) The fine shall be presumed appropriate and legitimate  
517 when reviewed by the appeal committee.

518       (d) The appeal committee shall make a written  
519 recommendation within 10 business days of receipt of the  
520 appeal request.

521       (e) The full Finance Committee of the Board shall review  
522 the recommendation.

523       (f) The Finance Committee shall make a formal  
524 recommendation to the Board to accept, modify or reject the  
525 appeal explanation and fine.

526       B. The Board, in a regular monthly meeting, may accept  
527 or reject the Finance Committee's final recommendation to  
528 affirm the fine, modify the fine, or grant the appeal.

529       C. Consistent with the Board's general control and  
530 supervision of the Utah public school system and given the  
531 significant public policy concern for safe schools and  
532 cost-effective public school building projects, a local board  
533 of education or a local charter board has no further appeal  
534 opportunity.

535 **KEY: educational facilities**

536 **Date of Enactment or Last Substantive Amendment: [~~December 23,~~**  
537 **~~2006]~~2008**

538 **Notice of Continuation: November 1, 2004**

539 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**  
540 **53A-1-401(3); 53A-20-104; 53A-20-104.5; 10-9-106; 17-27-105;**  
541 **53A-17a-144(4) (d)**